

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

TUESDAY, JUNE 26, 2012 – 7:00 P.M.

Prayer offered by Councilman Paul R. Riddick, followed by the Pledge of Allegiance.

President Fraim moved to excuse Mr. Smigiel from today's meeting.

Motion adopted.

Yes: Burfoot, Protogyrou Riddick, Whibley, Williams, Winn and Fraim.

No: None.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn and Fraim.

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No: None.

CEREMONIAL MATTER

President Fraim read and presented a proclamation to Minister Tracy Thomas of the Lott Carey Organization for their continuous support to provide guidance and support to the youth.

PUBLIC HEARING

PH-1

PUBLIC HEARING scheduled this day pursuant to action of the Council on **June 12, 2012** under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance of two parcels of City owned property located at **1101 Warrington Avenue** to the **Virginia Department of Transportation**.

Thereupon, An Ordinance entitled, “An Ordinance authorizing the conveyance of two parcels of city owned property to the Virginia Department of Transportation in connection with the construction of a new two-lane tunnel under the Elizabeth River, subject to the public’s continued right to utilize the parcels as recreational pedestrian/bicycle trails,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 27, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

CONSENT AGENDA

C-1

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of **Holy Smokes Restaurant**, for a change of zoning from **Conditional C-2 (Corridor Commercial) District** to **C-2 District**, and for a **Special Exception** to operate an eating and drinking establishment on property located at **2700 Hampton Boulevard**.

ACTION: City Clerk authorized to advertise for a public hearing on July 24, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

C-2

Letter from the City Manager presenting recommendation of the City Planning Commission on the application of **YMCA** for the closing,

vacating and discontinuing a portion of **West 29th Street** between **Omohundro Avenue** and **Granby Street**.

ACTION: City Clerk authorized to advertise for a public hearing on July 10, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

C-3 Letter from the City Manager recommending a public hearing be held to hear comments on the conveyance of a **GEM Lot** to **Peron Johnson** on property located at **1422 O’Keefe Street**.

ACTION: City Clerk authorized to advertise for a public hearing on July 10, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

REGULAR AGENDA

R-1 Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer** to issue a refund to **152 LLC** based upon the overpayment of **Real Estate Taxes** for **Tax Years 2008** through **2012**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-2 Letter from the City Manager and an Ordinance entitled, “An Ordinance granting **Ronald W. Boone, Sr.**, permission to encroach into the right of way of **Atlans Street** 150’+/- with a 12’ wide asphalt driveway, and approving the terms and conditions of the **Encroachment Agreement**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, and Winn.

No. None.

Abstained: Fraim.

R-3

Letter from the City Manager and a Resolution entitled, “A Resolution certifying to the **Virginia Retirement System** that the City of Norfolk has made an irrevocable election not to participate in the **Line of Duty Act Fund**,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Riddick, Whibley, Williams, Winn, and Fraim.

No. Protogyrou.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting, appropriating and authorizing the expenditure of **\$5,000** in grant funds, if and when received from the **Commonwealth’s Virginia Commission for the Arts** for distribution in support of local arts organizations and appropriating an additional **\$5,000** for expenditure as a local cash match,” was introduced in writing and read by its title.

Debra Burrell, 500 East Main Street, Arts Manager, was available to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain **Section 46.1-32** of the ***Norfolk City Code, 1979***, to add **Subsection (g), SO AS TO** provide that rates for treated water for any wholesale military customer shall be **Six Dollars Eleven Cents (\$6.11)** per thousand (1,000) gallons **Four Dollars Fifty Seven Cents (\$4.57)** per hundred (100) cubic feet,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 1, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **Max P. Jacobs** and **Joann Jacobs** to encroach into city property at **2052 East Ocean View Avenue**, with a wood walkway and stairs,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance, permitting **733 Boush Street, LLC** to encroach into **Boush Street** right-of-way with a 24” by 146” sign on the front of the building at **733 Boush Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance appropriating the sum of **\$120,000.00** as a result of the recovery of hazardous materials response costs and authorizing the expenditure of said amount by the **Norfolk Fire-Rescue Department**,” was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, spoke in support of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the acquisition of a thirty foot temporary ingress/egress license from the **City of Suffolk** over certain property located in the **City of Suffolk** adjacent to **Godwin Boulevard**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-10

Letter from the City Manager and a Resolution entitled, “A Resolution approving the terms and conditions of a **Law Enforcement Mutual Aid Agreement** by and among the cities of **Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, Williamsburg**, the **Counties of Accomack, James City, Gloucester, Isle of Wight, Northampton and York** and the towns of **Smithfield and Windsor**,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving an **Institutional Development Plan** for a new medical office building on property located on the southeast corner of **Kingsley Lane and Newport Avenue**,” was introduced in writing and read by its title.

John Barrett and Rebecca McMahan, 150 Kinsley Lane, Thomas Ladd, 2700 East Cary Street, Richmond, Virginia, Matthew Price, 1700 Ranch Drive, Richmond, Virginia, and Larry Barry, 4500 Main Street, were present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **6819 Sewells Point Road**,” was introduced in writing and read by its title.

- Lizora Harrison, 7004 University Drive, spoke in opposition to this matter.

- Zshan Hameed, 1033 Widgeon Road, the applicant, spoke concerning this matter.
- Robyn Thomas, 913 West 21st, was present to answer questions.

ACTION: The Ordinance as introduced was **LOST**.

Yes: Protogyrou and Whibley.

No. Burfoot, Riddick, Williams, Winn, and Fraim

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an **Automobile Repair** facility on property located at **1160 Harmony Road**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-14

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **5103 to 5107 Colley Avenue**,” was introduced in writing and read by its title.

Jonathan Boggs, 1609 Helena Avenue, the applicant, spoke concerning this matter.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a **Religious Institution** on property located at **2736 to 2746 Woodland Avenue**,” was introduced in writing and read by its title.

- Steve Levins, 770 Independence Circle, Virginia Beach, the applicant, spoke concerning this matter.

- Eric Jordan, 1408 South Eva Boulevard, Chesapeake, spoke concerning this matter.
- Richard Parker, 956 Avenue H, supported the Ordinance.

ACTION: Continued to July 10, 2012.

Yes: Burfoot, Riddick, Williams, Winn, and Frain.

No. Protogyrou, Whibley.

R-16

Letter from the City Manager an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a **Commercial Drive-Through** facility on property located at **1530 International Boulevard**,” was introduced in writing and read by its title.

Mark Joyce, 28 Blackwell Park Lane, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-17

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to operate an entertainment establishment on property located at **1570 North Military Highway**,” was introduced in writing and read by its title.

Jason McCarthy, 21 Queenswood Boulevard, Elizabeth City, North Carolina, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-18

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off premises consumption on property located at **5015 Colley Avenue**,” was introduced in writing and read by its title.

Gordon Holley, 5529 Dell Park Avenue, Virginia Beach, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-19 Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an entertainment establishment on property located at **328 West 20th Street**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-20 Letter from the City Manager and an Ordinance entitled, “An Ordinance, granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **4200 Monarch Way**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-21 Letter from the City Manager and a Resolution entitled, “A Resolution in support of the **Norfolk Public Schools** seeking a federal grant through the **Office of Economic Adjustment of the Department of Defense** to renovate or rebuild **Camp Allen Elementary School**,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-22

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the **Management Services Agreement** by and between the City of Norfolk and **Waterside Marina, L.L.C.**, for the operation of the **Waterside Marina**,” was introduced in writing and read by its title.

Michael Evans, 250 West Tazewell Street, spoke concerning this matter.

ACTION: The Ordinance as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-23

Letter from the City Manager and a Resolution entitled, “A Resolution certifying to the **Virginia Retirement System** that the City of Norfolk has elected to pay the employer contribution certified rate of 11.74 percent on behalf of all **55212 Constitutional Officers** and their employees who are members of the **Virginia Retirement System effective July 1, 2012**,” will be introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective July 1, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-24

Letter from the City Manager and a Resolution entitled, “A Resolution certifying employee contributions and corresponding wage increases in compliance with **Virginia Code Section 51.1-144** to be paid by the city on behalf of all **55212 Constitutional Officers** and their employees who are **Virginia Retirement System** members effective **July 1, 2012**,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective July 1, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Frain.

No. None.

R-25

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving and adopting the **Fiscal Year 2013 Compensation Plans**

for officers and employees of the city, amending and reordaining the **Norfolk City Code 1979**, as amended, and approving criteria and procedures for pay supplements for certain Constitutional and State Officers and their employees,” was introduced in writing and read by its title.

Jane Bethel, 5632 Brandon Boulevard, spoke concerning this matter.

ACTION: The Ordinance as introduced was **adopted**, effective June 23, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

R-26

A Resolution entitled, “A Resolution appointing **Noelle M. Gabriel, M.D., Edward K. Haywood, and Rodney A. Jordan** to the **School Board** of the City of Norfolk,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Whibley, Williams, Winn, and Fraim.

No. None.

NEW BUSINESS

1. Randy Lassiter, 1913 Maurice Drive, spoke concerning the recent transfer of the Community Services Board to the City, and asked the City Manager to rethink the move, stating it would be a great liability to the city.
2. Tom Forrest, 9483 Mooring Drive, complimented Council on the drive through the Midtown Tunnel, stating that traffic is moving smoothly.
3. June Kitchens, 1226 East Ocean View Avenue, stated that when the street where she lives was repaved it took away her parking place. It appears that the markings were painted wrong, and as a result her car was hit while parked on the street.
4. Jamie Sisson, 1226 East Ocean View Avenue, Apt 1, stated that her parking space was taken away when the street where she lives was repaved and now she has nowhere to park.

5. Glen Jones, 2501 Kenon Avenue, spoke concerning various community issues.
6. Donald Hornstein, 603 Westover Avenue, Apt 9, spoke concerning 161 Granby Street, a building adjacent to his property, which currently has a dumpster filled with trash in front of the building.
7. Vernon Evans-El, 1731 Campostella Road, spoke about his rights being violated when a code inspector and a police officer came to his home.
8. Merle Ruthledge, 932 Reservoir Avenue, spoke concerning the police being inconsistent.
9. Danny Lee Ginn, 3844 Dare Circle, spoke concerning good government.